



POWER OF ATTORNEY FROM ASSIGNEE

Bankers Trust Corporation, a corporation of New York, having a principal place of business at 31 West 52nd Street, New York, New York, 10019, is assignee of the entire right, title and interest for the United States of America (as defined in 35 U.S.C. § 100) of an invention known as System, Method, and Computer Program Product for Collateral Management Operations (Attorney Docket No. 1750.0150000), which is disclosed and claimed in a patent application of the same title by the inventor(s) Shimko et al. (said application filed on April 20, 1999 at the U.S. Patent and Trademark Office, having Application Number 09/294,898), by reason of a Proprietary Interest Agreement executed by David Shimko on March 24, 1997, a Proprietary Interest Agreement executed by H. Brett Humphreys on April 1, 1998, and a Master Agreement for Consulting Services executed by Richard Apostolik on January 4, 1999.

The Assignee hereby appoints the U.S. attorneys associated with **CUSTOMER NUMBER 28393** to prosecute this application and any continuation, divisional, continuation-in-part, or reissue application thereof, and to transact all business in the U.S. Patent and Trademark Office connected therewith, such attorneys currently being: Robert Greene Sterne, Esq., Reg. No. 28,912; Edward J. Kessler, Esq., Reg. No. 25,688; Jorge A. Goldstein, Esq., Reg. No. 29,021; David K.S. Cornwell, Esq., Reg. No. 31,944; Robert W. Esmond, Esq., Reg. No. 32,893; Tracy-Gene G. Durkin, Esq., Reg. No. 32,831; Michele A. Cimbala, Esq., Reg. No. 33,851; Michael B. Ray, Esq., Reg. No. 33,997; Robert E. Sokohl, Esq., Reg. No. 36,013; Eric K. Steffe, Esq., Reg. No. 36,688; Michael Q. Lee, Esq., Reg. No. 35,239; Steven R. Ludwig, Esq., Reg. No. 36,203; John M. Covert, Esq., Reg. No. 38,759; Linda E. Alcorn, Esq., Reg. No. 39,588; Lawrence B. Bugaisky, Esq., Reg. No. 35,086; Donald J. Featherstone, Esq., Reg. No. 33,876; and Robert C. Millonig, Esq., Reg. No. 34,395. The Assignee hereby grants said attorneys the power to insert on this Power of Attorney any further identification that may be necessary or desirable in order to comply with the rules of the U.S. Patent and Trademark Office.

The Assignee authorizes no other parties to prosecute this application or any continuation, divisional, continuation-in-part, or reissue application thereof, or to transact any business in the U.S. Patent and Trademark Office connected therewith.

Send correspondence to:

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W.
Suite 600
Washington, D.C. 20005-3934
U.S.A.

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Direct phone calls to 202-371-2600.

FOR: Bankers Trust Corporation

SIGNATURE: _____

Lea Lahtinen
LEA LAHTINEN

BY: _____

ASSISTANT SECRETARY

TITLE: _____

DATE: _____

April 4, 2002



Certificate Under 37 C.F.R. § 3.73(b)

Applicant/Patent Owner: Shimko et al.

Application No./Patent No.: 09/294,898 Filed/Issue Date: April 20, 1999

Entitled: System, Method, and Computer Program Product for Collateral Management Operations

Bankers Trust Corporation

(Name of Assignee)

, a corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest, or
2. ☐ an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

- A. ☒ A Proprietary Interest Agreement executed by David Shimko on March 24, 1997, a Proprietary Interest Agreement executed by H. Brett Humphreys on April 1, 1998, and a Master Agreement for Consulting Services executed by Richard Apostolik on January 4, 1999, wherein Messrs. Shimko, Humphreys, and Apostolik are inventor(s) of the patent application/patent identified above. These documents were recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s) of the patent application/patent identified above to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☒ Copies of assignments or other documents in the chain of title are attached.

[NOTE:] A separate copy (*i.e.*, the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the PTO. See MPEP 302-302.8]

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

Date: April 4, 2002

Name: LEA LAHTINEN

Title: ASSISTANT SECRETARY

Signature: Lea Lahtinen

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DO NOT FORWARD
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**BANKERS TRUST NEW YORK CORPORATION
PROPRIETARY INTEREST AGREEMENT**

In consideration of my employment or continued employment by Bankers Trust New York Corporation or any of its subsidiaries or affiliates (such employers being hereinafter collectively and individually referred to as "Bankers Trust"), I agree as follows:

1. I recognize that Bankers Trust's business interests require that I keep confidential certain information, including but not limited to trade secrets, know-how, financial information concerning Bankers Trust and its customers and specifications, programs, documentation and manuals relating to all financial models, telecommunications and computer systems, software, hardware and applications developed or used by Bankers Trust ("Proprietary Information"). While I am employed by Bankers Trust, and for two years thereafter, I agree to keep Proprietary Information confidential, and I will not use or divulge, or attempt to use or divulge, Proprietary Information except as permitted or required by my duties at Bankers Trust.

2. I understand that while I am employed, Bankers Trust will make available to me Proprietary Information and/or equipment, hardware, software, working space and other resources ("Resources") for Bankers Trust business purposes. I agree that I will not use the Proprietary Information or Resources for any purpose other than the business of Bankers Trust. I also agree that I will not remove any materials containing Proprietary Information or any Resources from Bankers Trust premises without written authorization, and that upon termination of my employment with Bankers Trust, or upon the request of a Senior Departmental Manager (SVP, EVP or MD) I will return immediately to Bankers Trust all such materials or Resources in my possession or otherwise under my control.

3. I agree that, except as agreed in writing between me and a Senior Departmental Manager, Bankers Trust has the sole proprietary interest in any financial models, telecommunications and computer systems, software, hardware and applications which have been or may be designed, implemented, tested, documented, or modified by me utilizing Resources or Proprietary Information, or done at the request of Bankers Trust, or done during my working hours for Bankers Trust.

4. I agree that I will notify a Senior Departmental Manager in writing of any financial models, telecommunications and computer systems, software, hardware, and applications in which I claim any right or ownership interest, and I hereby acknowledge and confirm that Bankers Trust is not using currently any financial models, telecommunications and computer systems, software, hardware and applications in which I claim any right or ownership interest.

5. I agree that this Agreement or any of its provisions may be waived or modified by Bankers Trust only by the written agreement of a Senior Departmental Manager or another officer designated in writing by such person for such purpose.

Please Print:

DAVID SHIMKO
Employee Name
RMA
Department/Subsidiary/Affiliate
167 PLAZA
Location

David Shimko
Employee Signature
Social Security Number
3124197
Date

BEST AVAILABLE COPY

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In consideration of my employment or continued employment by Bankers Trust New York Corporation or any of its subsidiaries or affiliates (such employers being hereinafter collectively and individually referred to as "Bankers Trust"), I agree as follows:

1. I recognize that Bankers Trust's business interests require that I keep confidential certain information, including but not limited to trade secrets, know-how, financial information concerning Bankers Trust and its customers and specifications, programs, documentation and manuals relating to all financial models, telecommunications and computer systems, software, hardware and applications developed or used by Bankers Trust ("Proprietary Information"). While I am employed by Bankers Trust, and for two years thereafter, I agree to keep Proprietary Information confidential, and I will not use or divulge, or attempt to use or divulge, Proprietary Information except as permitted or required by my duties at Bankers Trust.
2. I understand that while I am employed, Bankers Trust will make available to me Proprietary Information and/or equipment, hardware, software, working space and other resources ("Resources") for Bankers Trust business purposes. I agree that I will not use the Proprietary Information or Resources for any purpose other than the business of Bankers Trust. I also agree that I will not remove any materials containing Proprietary Information or any Resources from Bankers Trust premises without written authorization, and that upon termination of my employment with Bankers Trust, or upon the request of a Senior Departmental Manager (SVP, EVP or MD) I will return immediately to Bankers Trust all such materials or Resources in my possession or otherwise under my control.
3. I agree that, except as agreed in writing between me and a Senior Departmental Manager, Bankers Trust has the sole proprietary interest in any financial models, telecommunications and computer systems, software, hardware and applications which have been or may be designed, implemented, tested, documented, or modified by me utilizing Resources or Proprietary Information, or done at the request of Bankers Trust, or done during my working hours for Bankers Trust.
4. I agree that I will notify a Senior Departmental Manager in writing of any financial models, telecommunications and computer systems, software, hardware, and applications in which I claim any right or ownership interest, and I hereby acknowledge and confirm that Bankers Trust is not using currently any financial models, telecommunications and computer systems, software, hardware and applications in which I claim any right or ownership interest.
5. I agree that this Agreement or any of its provisions may be waived or modified by Bankers Trust only by the written agreement of a Senior Departmental Manager or another officer designated in writing by such person for such purpose.

Please Print

H. BAET HUMPHREYS

Employee Name

BT Ventures

Department/Subsidiary/Affiliate

4 WTC

Location

[Signature]

Employee Signature

Social Security Number

4-1-98

Date



DO NOT FORWARD
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**Master Agreement for Consulting Services
Between
Richard Apostolik
And Bankers Trust Corporation**

This Agreement is made and entered into as of this 4th day of January, 1999, by and between RICHARD APOSTOLIK, an individual, having a place of business at 28 Edgemont Avenue, Summit, New Jersey 07901 (hereinafter referred to as "Consultant") and BANKERS TRUST CORPORATION, a New York corporation having a principal place of business at One Bankers Trust Plaza, New York, NY 10006 (hereinafter referred to as "BT").

WITNESSETH

That, for and in consideration of the mutual promises and covenants hereinafter contained, the parties hereto agree as follows:

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1. Services

1.1. Consultant shall, in accordance with the provisions hereof and such Schedules (substantially in the form of Exhibit A attached hereto and hereinafter referred to as "Schedule") to this Agreement as may from time to time be executed and delivered by Consultant and BT, furnish BT with the services of qualified persons who shall perform for BT such consulting services, systems analysis and design services and/or programming services (collectively, the "Services") as may be determined in advance of each assignment by BT and Consultant and shall be enumerated in said Schedule. Each Schedule shall specify: (i) a description of the particular Services to be performed; (ii) the deliverables, documentation and other material to be produced ("Deliverables"); (iii) the date each Deliverable is to be delivered to BT ("Delivery Date"); (iv) the specifications applicable to the particular Services to be performed ("Specifications"); (v) the name of the Consultant designated to perform the Services in accordance with the Schedule and this Agreement; (vi) the period of time during which the Consultant is to perform such Services for BT; (vii) whether the assignment is a fixed price engagement or a time and material engagement; (viii) the rate BT shall pay for the Services performed by such Consultant; and (ix) such additional terms and conditions as the parties may mutually agree upon. BT's respective obligations under this Agreement with respect to the Consultant and Services specified in each Schedule shall become effective upon the execution and delivery by both parties of each such Schedule. All Schedules once duly executed shall be incorporated into and form a part of this Agreement and shall be subject to all of the terms and conditions of this Agreement. In the event of any conflict between the terms of this Agreement

and the terms of any Schedule, the terms of such Schedule shall govern for purposes of such Schedule.

- 1.2. Upon BT's request, Consultant shall deliver to BT a progress report, including, but not limited to, the following information: (i) a summary of Services performed up until the request; (ii) a summary of progress achieved in the completion of work in relationship to any scheduled milestones, advising of any current problems, their causes, and any work that will not be completed as scheduled; and (iii) with respect to any problems encountered or anticipated in the course of performance, their anticipated impact project performance, and any and all recommended solutions to be taken and/or employed. In addition, Consultant shall contact BT promptly upon discovery of any problem that will materially delay the performance of the Services hereunder.
- 1.3. BT's right to receive Services provided by Consultant hereunder, shall also include the right of BT's subsidiaries and affiliates (collectively referred to as "BT Subsidiaries"), to receive Services without additional charges to BT or notice from BT; provided, however, that BT shall be responsible for the compliance of all such BT Subsidiaries with the terms and conditions of this Agreement, as if such BT Subsidiaries were parties thereto. Any rights granted to a BT Subsidiary hereunder, shall automatically cease upon that BT Subsidiary ceasing to be such a subsidiary of BT.

2. Term

The term of this Agreement shall commence as of the date hereof and shall remain in force until terminated by either party pursuant to the provisions of Section 14. hereof.

3. Delivery; Acceptance; Change Order

- 3.1. Consultant shall deliver each Deliverable on or before the Delivery Date. In the event that Consultant shall fail to complete delivery of each Deliverable within ten (10) business days of the applicable Delivery Date specified in the applicable Schedule, BT may, on written notice any time thereafter, terminate the Schedule or Deliverable involved, without obligation, liability or penalty of any kind, unless otherwise specified in the applicable Schedule.
- 3.2. Each deliverable shall be subject to a verification of acceptability by BT to ensure that such deliverable satisfies BT requirements. Unless otherwise specified on the Schedule, the acceptability of any deliverable shall be based on BT's satisfaction or non-satisfaction with the deliverable, in BT's sole and reasonable discretion. If any deliverable is not acceptable, BT shall notify Consultant specifying its reasons in reasonable detail, and Consultant will, at no additional cost, promptly conform such deliverable to BT's requirements. If within seven (7) business days of such BT notification, any deliverable is still not acceptable, BT may at any time thereafter, at its option and without obligation or liability of any kind, terminate the Schedule involved in whole or

in part. Upon any such termination BT shall return any work product delivered to it by consultant pursuant to the Schedule and agrees to not use any such information or knowledge gained from such work product for any reason whatsoever without the prior knowledge and written consent of Consultant. A failure by BT to reject any work product deliverable under this Agreement within five (5) business days of delivery shall be deemed an acceptance of such work product.

- 3.3. If, at any time, BT requests any change in the Specifications applicable to any Deliverable (each, a "Change"), Consultant shall provide to BT a written estimate of the additional charges, if any, to implement such Change and the resulting change, if any, to the applicable Delivery Date(s). BT shall thereupon determine whether to authorize such Change, which authorization shall be evidenced in a written Change order signed by BT. If any such Change is so authorized by BT, then the Delivery Date for the applicable Deliverable shall be extended or expedited accordingly. Any Change order shall become part of the Specifications applicable to such Change order, upon execution of the same by both parties.

4. Payment

- 4.1. In full consideration for the Services performed under this Agreement by the Consultant, BT shall pay to Consultant (i) for time and material engagements the daily rates as specified in the applicable Schedule, relating to the particular Services and Consultant who performed such Services for each hour or day of work performed in accordance with the provisions hereof ("Daily Rate"), and (ii) for fixed price engagements the rates set forth in the applicable Schedule ("Fixed Rate"). The Daily Rate specified in the applicable Schedule is based on a minimum eight (8) hour day, exclusive of one (1) hour for meals; if any Consultant works less than eight (8) hours in any one day, each hour shall be billed at a rate of one eighth the Daily Rate. All Daily Rate charges in excess of five (5) days in any one week, shall be billed at the applicable Daily Rate. Nothing contained herein is intended to relieve Consultant of its obligation to comply with applicable wage and hour, employment and immigration laws, rules or regulations or common law.
- 4.2. BT shall reimburse Consultant for all reasonable expenses necessarily and actually incurred by the Consultant in connection with travel arrangements requested by BT, provided (i) BT has been provided an itemized invoice with respect to such expenses; (ii) furnished to BT receipted bills evidencing such expenses; and (iii) complied with BT's current travel policy. Notwithstanding the foregoing, Consultant shall, at Consultant's expense, carry all necessary and appropriate personal accident insurance to cover the Consultants if and when they are required by BT to travel pursuant to this Agreement.

- 4.3. No amounts shall be payable by BT to Consultant hereunder except as set forth in Sections 4.1. and 4.2.
- 4.4. Invoices will be submitted by Consultant to BT (i) on any media designated by BT, which may be modified from time to time at BT's option, and (ii) in accordance with the schedule of payments set forth in the applicable Schedule. Each invoice shall include the applicable BT expense details as provided by BT to Consultant. BT shall pay each invoice within forty five (45) days after receipt, except for disputed charges and/or expenses. Any dispute with respect to certain charges or expenses shall not affect payment of non-disputed charges and expenses.
- 4.5. Any progress payments or any acceptance testing procedures required prior to payment hereunder shall be set forth in the related Schedule.
- 4.6. Consultant shall maintain complete and accurate accounting records, in accordance with generally accepted accounting principles, to demonstrate full compliance with all the terms and conditions of this Agreement, to substantiate Consultant's charges and/or expenses hereunder. BT or its designated representative(s) shall have access to such records for purposes of audit during normal business hours upon no less than twenty-four (24) hours prior notice to Consultant.

5. Consultant

- 5.1. For each Schedule, Consultant shall act as the project manager (hereinafter referred to as "Consultant Project Manager") and BT shall designate a project manager (hereinafter referred to as "BT's Project Manager") who will operate as the main interface between the parties. The Consultant Project Manager shall perform the Services in accordance with the instructions of BT Project Manager in charge of the project to which the Consultant has been assigned and in accordance with BT's standards.
- 5.2. Consultant, while on the premises of BT to perform Services under this Agreement, shall comply with BT's rules, regulations and policies concerning such matters as operating procedures, security requirements, working conditions, working hours and holidays. Consultant shall carry out its work and all necessary contacts with BT and its personnel so as not to disrupt BT's normal operating procedures.
- 5.3. Assignment of Consultants to BT's premises for the performance of Services may, at BT's discretion, require such Consultant to carry BT's identification credentials. The identification credentials shall be used only as directed by BT. BT shall not be liable for any unauthorized use of the identification credentials by the Consultant.

In the event that on-site services pursuant to this Agreement require identification credentials to be issued by BT, such identification credentials shall be provided only if (i) background screening is conducted that satisfies BT's security standards, including but not limited to, (a) successfully passing a drug and alcohol substance abuse examination administered by a medical testing facility approved by BT; (b) verification of the previous employment as reflected on the Consultant employment application with a good faith effort to determine if the Consultant is considered eligible for re-hire; (c) review of credit and litigation records to establish the Consultant's credit history; (d) confirmation of Consultant's resident address and telephone number; (e) confirmation of highest education qualification claimed; and (f) verification of eligibility of employment in the United States of America; and (ii) the Consultant is fingerprinted by BT or its agents, and agrees that such fingerprinting may be submitted at BT's option, to the (a) Federal Bureau of Investigation, (b) State Police, and (c) any other law enforcement agencies as BT may desire, for a criminal conviction record check. Positive replies to fingerprint record checks may be the basis of BT's objection to Consultant. Results from the screening process will be maintained in the Consultant's personnel records and will be made available to BT or its agents for review at any time.

If for any reason Consultant no longer performs Services for BT, Consultant shall return BT identification credentials to BT not later than the following day.

- 5.4. Consultant shall not use for its own personal use, any property of BT, including but not limited to, any computer resources belonging to BT or rented or leased by BT or entrusted to BT by BT's customers or suppliers without the prior permission of the BT Project Manager.

6. Relationship Between the Parties

The Consultant is an independent contractor in the performance of Services under this Agreement and shall not be considered to be an agent, employee, joint venture, partner or subcontractor of BT.

7. Consultant Benefits and Compensation

- 7.1. Consultant shall be solely responsible for the withholding and/or payment of all Federal, State and local income, unemployment, social security and other payroll taxes, workers' compensation, disability benefits, and all such additional legal requirements of like nature applicable to such Consultant.
- 7.2. Compensation provided by BT to Consultant hereunder is not intended to constitute "wages" for purposes of federal, state or local withholding taxes, social security payments, insurance contributions, unemployment taxes or otherwise.

- 7.3. Consistent with this Agreement and Consultant's status as an independent contractor, Consultant shall not hold himself out as, nor claim to be, an officer or employee of BT, nor to make claims, demands or applications to any right or privilege applicable to any officer or employee of BT. Consultant agrees that he is not eligible for BT benefits.
- 7.4. Consultant shall indemnify and hold BT harmless from any liabilities, losses, costs, damages and expenses (including reasonable fees and disbursements of counsel selected by or incurred by BT) arising from claims against BT for his failure to comply with or adhere to all applicable federal, state and local laws.

8. Indemnification in Connection with Injuries to Persons or Damage to Property

Each party shall indemnify and hold harmless the other party, its affiliates, directors, officers, employees and agents (collectively, the "indemnified party") against and from any and all suits, actions, proceedings at law or in equity, claims (groundless or otherwise), liabilities, losses, damages, judgments, payments, deficiencies, settlements, penalties, fines, fees, economic losses, costs and expenses, including fees and disbursements of counsel selected by the indemnified party (whether incurred in a third party action, or in an action brought by either party against the other to enforce its rights under this Agreement), (collectively, "Liabilities") arising out of or incurred in connection with bodily injury (including death) to any person, damage to the property, or interest of any person, firm, or corporation to the extent that such injury or damage shall have been occasioned by, shall have resulted from, or shall in any way be attributable to the willful or negligent acts or omissions of the indemnifying party, its affiliates, officers, directors, employees, agents or subcontractors in any way related to this Agreement or the performance of indemnifying party's obligations under this Agreement, provided that the indemnifying party shall not be responsible for Liabilities resulting directly from the gross negligence or willful misconduct of the indemnified party.

9. Consultant's Representations and Warranties

- 9.1. Consultant represents, warrants and covenants that Consultant is an independent consultant that provides services to the general public;
- 9.2. Consultant represents, warrants and covenants that there exists no agreement or restriction which would interfere with or prevent Consultant from entering this Agreement or rendering services described herein.
- 9.3. Consultant represents, warrants and covenants that it shall not have the right, power or authority to bind or expend funds on behalf of BT without the express authorization of BT or to create any obligation, express or implied, on behalf of BT.
- 9.4. Consultant represents, warrants and covenants that at the time of acceptance, each Deliverable will conform to its Specifications and BT's requirements.

- 9.5. Consultant represents, warrants, and covenants that the Works, as defined in Section 13.1 and each part thereof will be created solely by the designated Consultant acting within the scope of his employment, or that at the time of delivery to BT, Consultant will be the sole owner thereof, or that at such time Consultant will have the lawful right and be fully authorized to transfer all right, title and interest, including copyright, in such Works and each part thereof to BT.

10. Confidentiality

- 10.1. Consultant will treat as confidential (a) the terms of this Agreement; (b) all information and data, of whatsoever nature, relating to BT (including but not limited to BT operations, policies, procedures, techniques, accounts and personnel and those of BT's affiliates) or used by BT or any of BT's affiliates in carrying on business, obtained by Consultant, or disclosed to Consultant in connection with the performance by Consultant of Consultant's obligations under this Agreement; and (c) all information and data which are proprietary to a third party (including but not limited to BT's customers and suppliers) and which BT are obligated to treat as confidential, obtained by Consultant, its officers, employees, or agents, or disclosed to Consultant in connection with the performance by Consultant of Consultant's obligations under this Agreement (individually and collectively, "Confidential Information"). Consultant shall not disclose any such Confidential Information to any third not involved in or responsible for the performance of Consultant's obligations under this Agreement. Furthermore, Consultant shall not use any such Confidential Information to obtain an unauthorized benefit for Consultant, BT or any third party. Consultant hereby acknowledges that enforcement of this Section 10.1. through claims for damages would be inadequate and that BT shall be entitled to any necessary injunctive relief.
- 10.2. BT shall exercise the same degree of care to keep confidential any information disclosed to BT by Consultant hereunder and marked by Consultant as confidential or proprietary as BT exercises to keep confidential BT's own information of like nature, provided that BT shall be free to disclose any such information (i) to any expert (including, but not limited to, accountants, appraisers, attorneys and engineers) employed by BT to assess Consultant's performance under this Agreement or to assess the rights and remedies available to BT during the continuance of any event of default hereunder or an event which with notice or lapse of time or both would constitute an event of default hereunder, (ii) in any other case, with Consultant's consent, or (iii) as may be required by law or by regulation.
- 10.3. Upon BT's request, and in any event upon termination of this Agreement, Consultant shall return the original and any copies of the Confidential Information which it is holding in tangible form, written or otherwise, to BT or,

at BT's option, shall destroy such information and shall certify in writing to BT that such Confidential Information has been destroyed.

10.4. The foregoing to the contrary notwithstanding, there shall be no obligation under Sections 10.1 and 10.2 with respect to information and material that (i) is received from any third party source that is properly authorized to disclose it, (ii) is or becomes generally known to the public by publication or other means other than a breach of duty under this Agreement, or (iii) is required by law, regulation or court order to be divulged, provided that the request for such disclosure is proper and the disclosure does not exceed that which is required. In the event of any disclosure under (iii) above, a copy of this Section 10 shall be furnished to anyone to whom such disclosure is required and the disclosing party shall promptly, prior to disclosure, advise the other party in writing of each such disclosure.

11. Intellectual Property Rights

- 11.1. Consultant agrees that as of the date of this Agreement all documentation and information, including but not limited to, Deliverables, programs, specifications, technical information and data, and all software and other tangible or intangible products, materials or works prepared for BT or developed as a result of the Services performed hereunder (collectively, "Works") shall, to the extent permitted by law, be a contribution to a collective work or a compilation as defined in Section 101 of the United States Copyright Law, are specially ordered and commissioned for use as such, and shall be considered a work made for hire as defined in that section of the Copyright Law. BT shall have sole, exclusive and unlimited ownership rights, title and interest in and to the Works, including the right to obtain, hold and render, in its own name, patents, copyrights and registrations.
- 11.2. If the Works or any part thereof does not qualify as a work made for hire, Consultant agrees to irrevocably assign, transfer and convey to BT, for the full term of copyright and all extensions thereof, all rights, title and interest in and to the Works or any such part including the copyright therein. Consultant shall give BT and any person designated by BT, all reasonable assistance and shall execute all necessary documents to assist and/or enable BT to perfect, preserve, register and/or record its rights in any such Work. Consultant shall, immediately upon request of BT or upon termination of this Agreement, deliver to BT all Works prepared or developed pursuant to this Agreement, and all copies thereof.
- 11.3. All information and documentation, including, but not limited to, programs, specifications, technical information and data, (collectively, "Information"), furnished or made available by BT to Consultant, is the exclusive property of BT. All such Information shall be used by Consultant only in connection with the performance of the Services and this Agreement, and all copies of the Information, together with any associated or derived material, notes and/or

summaries (whether handwritten or mechanically produced) shall be delivered to BT promptly upon request or upon the termination of this Agreement.

- 11.4. BT shall receive free and clear title to all Works under this Agreement. Consultant shall indemnify, defend against at its own expense and hold harmless BT, its affiliates, directors, officers, employees and agents against and from any and all suits, actions, proceedings at law or in equity, claims (groundless or otherwise), liabilities, losses, damages, payments, deficiencies, settlements, penalties, fines, costs and legal and other expenses (including reasonable fees and disbursements of counsel selected by BT) asserted against BT or incurred by BT, arising out of or in connection with any claim that any Works infringes or violates any patent, copyright, trademark, trade secret or other proprietary right of any third party, whether or not such claim is successful. In the event of any such claim BT shall promptly notify Consultant.

12. Use of Name

Consultant will not, without BT's prior written consent in each instance, use in advertising, publicity or other promotional endeavor, the name of BT or any of BT's affiliates, or any officer or employee of BT, or any trade name, trademark, trade device, service mark, symbol or any abbreviation, contraction or simulation thereof used by BT or its affiliates: or represent, directly or indirectly, that any product or service provided by Consultant has been approved or endorsed by BT, or refer to the existence of this Agreement in press releases, advertising or materials distributed to Consultant's prospective customers.

13. Assignment

BT may assign this Agreement, any Schedule and/or any rights and/or obligations hereunder upon written notice and without the consent of Consultant to any (i) subsidiary or affiliate of BT, or (ii) successor pursuant to a merger, consolidation, sale of all or substantially all of its assets, or all or a substantial portion of the business to which the Work relates. Consultant shall not assign this Agreement, any Schedule and/or any rights and/or obligations hereunder without BT's prior written consent. Any attempted assignment in violation of this Section 13. shall be void.

14. Termination

BT may terminate this Agreement or any Schedule at any time upon five (5) days' written notice. Consultant may terminate this Agreement and/or any Schedule at any time by giving BT written notice of such termination and the effective date of such termination shall be no earlier than the date on which Consultant shall have completed the performance of all Services required to be performed under this Agreement to BT's reasonable satisfaction. BT shall have no further obligations hereunder after the date of such termination except that BT shall pay Consultant pursuant to Section 4., for the Services performed and expenses incurred by Consultant prior to such effective date of termination, provided that such Service have been performed to BT's reasonable satisfaction.

15. Survival of Termination

The obligations set forth in Sections 8, 9, 10, 11, 12, 14, 15, 16, 19 and Exhibit B hereto, shall survive any termination of this Agreement.

16. Notices

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given upon delivery if delivered by hand (against receipt), or as of the date of delivery shown on the receipt if mailed at a post office in the United States by registered or certified mail, postage prepaid, return receipt requested, in any case addressed to the attention of the persons listed below and to the party intended as the recipient thereof at the address of such party as set forth below or at such other address or to the attention of such other person as such party shall be designated for such purpose in a written notice (complying as to delivery with the terms of this Section).

To Consultant:

Address: 28 Edgemont Avenue
Summit, New Jersey 07901
Attention: Name: Richard Apostolik

To Bankers Trust Corporation:

Address: One Bankers Trust Plaza, New York, NY 10006
Department: Global Expense Management
Mail Stop: 2119
Attention: Strategic Sourcing

And copies to the name and address set forth on the applicable Schedule.

17. Force Majeure

Neither Consultant nor BT shall be held responsible nor be deemed to be in default under this Agreement for any delay in performance or failure in performance of any of their respective obligations to be performed hereunder if such delay or failure is the result of causes beyond the control and without negligence of the party with respect to whose obligations such delay in performance or failure in performance has occurred. Such causes shall include, without limitation, acts of God, strikes, lockouts, riots, insurrections, civil disturbances, sabotage, embargoes, blockades, acts of war, acts or failures to act of any governmental or regulatory body (whether civil or military, domestic or foreign), governmental regulations superimposed after the fact, power failures, fires, explosions, floods, accidents, epidemics, earthquakes or other natural or man-made disasters, and all occurrences similar to the foregoing (collectively referred to herein as "Force Majeure"). The party affected by an event of Force Majeure, upon giving prompt notice to the other party, shall be excused from performance hereunder on a day-to-day basis to the extent of such prevention, restriction or interference (and the other party shall likewise be excused from performance of its obligations on a day-to-day basis to the extent that such obligations relate to the performance so prevented, restricted, or interfered with); provided

that the party so affected shall use its best efforts to avoid or remove such cause of non-performance and to minimize the consequences thereof and both parties shall resume performance hereunder forthwith upon removal of such cause. No payment shall be required for any period of Force Majeure.

18. Equal Opportunity Employer

BT is an equal opportunity/affirmative action employer. In this connection, BT does not discriminate against any applicant or employee on the basis of race, color, religion, sex, sexual orientation, age, national origin, disability, status as a Vietnam era or special disabled veteran or any other protected class status. In addition, BT takes affirmative action to employ and advance in employment qualified minorities, women, the disabled, and covered veterans. Consultant agrees in connection with its obligations under this Agreement to adhere to BT equal opportunity/affirmative action policy by not discriminating against any applicant or employee and to refer individuals to BT on a nondiscriminatory basis, regardless of their protected class status. Consultant also certifies that it will comply with its obligations under the Immigration Reform and Control Act, the Fair Labor Standards Act and all other applicable federal, state and local laws and regulations in connection with Consultant assigned to BT.

19. General

- 19.1. This Agreement, including Exhibits A and B hereto, its subject matter and the parties' respective rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to principles regarding conflicts of law.
- 19.2. There are no understandings, agreements or representations, express or implied, with respect to the subject matter hereof not specified herein. This Agreement shall not be deemed or construed to be modified, amended, rescinded, canceled or waived in whole or in part, except by a writing executed by both parties.
- 19.3. No remedy conferred by any of the specific provisions of this Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies.
- 19.4. If any of the provisions of this Agreement or any Schedules hereto shall be invalid or unenforceable, such shall not render the entire Agreement or Schedule unenforceable or invalid but rather the Agreement or Schedule, as the case may be, shall be read and construed as if the invalid or unenforceable provision(s) are not contained therein, and the rights and obligations of the parties shall be construed and enforced accordingly.

DO NOT FORWARD
TO ASSIGNMENT BRANCH
NOT FOR RECORDATION

19.5. Both Consultant and BT have full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each has been properly authorized and empowered to enter into this Agreement. EACH PARTY FURTHER ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY IT.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day, month and year first written above.

BANKERS TRUST NEW YORK
CORPORATION

CONSULTANT

By: Andrew R. Garman

By: Richard A. Kostalik

Name: ANDREW R. GARMAN

Name: RICHARD A. KOSTALIK

Title: MANAGING DIRECTOR

Title: CONSULTANT

Date: 1-4-99

Date: 1/4/99